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By: **Delegates McComas, Amedori, Bates, Boutin, Carter, Cryor, Glassman,  
Impallaria, Lee, Menes, O'Donnell, Quinter, Stocksdale, V. Turner, and  
Weldon**

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Assigned to: Judiciary

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 20, 2003

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Crimes - Visual Surveillance - ~~Tanning Room~~ Private Place**

3 FOR the purpose of expanding ~~to a certain kind of room~~ the definition of "private  
4 place", for purposes of the prohibition against visually observing, with prurient  
5 interest, an individual without the consent of that individual, to include a room  
6 where a person has a reasonable expectation of privacy for a certain purpose;  
7 exempting from the prohibition against visual surveillance a person who,  
8 without prurient intent, conducts otherwise lawful visual surveillance in a  
9 health care setting; and generally relating to visual surveillance of an individual  
10 in a private place without the consent of that individual.

11 BY repealing and reenacting, with amendments,  
12 Article - Criminal Law  
13 Section 3-902  
14 Annotated Code of Maryland  
15 (2002 Volume)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Criminal Law**

19 3-902.

20 (a) (1) In this section the following words have the meanings indicated.

1 (2) "Camera" includes any electronic device that can be used  
2 surreptitiously to observe an individual.

3 (3) ~~(I) "Private place" means a TANNING ROOM, dressing room,~~  
4 ~~bedroom, or rest room~~ ROOM, WHERE A PERSON HAS A REASONABLE EXPECTATION  
5 OF PRIVACY WHILE PARTIALLY OR FULLY DISROBED, in:

- 6 ~~(i)~~ 1. an office, business, or store;
- 7 ~~(ii)~~ 2. a recreational facility;
- 8 ~~(iii)~~ 3. a restaurant or tavern;
- 9 ~~(iv)~~ 4. a hotel, motel, or other lodging facility;
- 10 ~~(v)~~ 5. a theater or sports arena;
- 11 ~~(vi)~~ 6. a school or other educational institution;
- 12 ~~(vii)~~ 7. a bank or other financial institution;
- 13 ~~(viii)~~ 8. any part of a day care home used for the care and custody  
14 of a child; or
- 15 ~~(ix)~~ 9. another place of public use or accommodation.

16 ~~(II) "PRIVATE PLACE" INCLUDES A TANNING ROOM, DRESSING~~  
17 ROOM, BEDROOM, OR RESTROOM.

18 (4) (i) "Visual surveillance" means the deliberate, surreptitious  
19 observation of an individual by any means.

20 (ii) "Visual surveillance" includes surveillance by:

- 21 1. direct sight;
- 22 2. the use of mirrors; or
- 23 3. the use of cameras.

24 (iii) "Visual surveillance" does not include a casual, momentary, or  
25 unintentional observation of an individual.

26 (b) This section does not apply to a person who without prurient intent:

- 27 (1) conducts filming by or for the print or broadcast media;
- 28 (2) conducts or procures another to conduct visual surveillance of an  
29 individual to protect property or public safety or prevent crime; ~~or~~
- 30 (3) conducts visual surveillance and:

1 (i) holds a license issued under Title 13 or Title 19 of the Business  
2 Occupations and Professions Article; and

3 (ii) is acting within the scope of the person's occupation, OR

4 (4) CONDUCTS OTHERWISE LAWFUL VISUAL SURVEILLANCE IN A  
5 HEALTH CARE SETTING.

6 (c) A person may not with prurient intent conduct or procure another to  
7 conduct visual surveillance of an individual in a private place without the consent of  
8 that individual.

9 (d) A person who violates this section is guilty of a misdemeanor and on  
10 conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding  
11 \$1,000 or both.

12 (e) (1) An individual who was under visual surveillance in violation of this  
13 section has a civil cause of action against any person who conducted or procured  
14 another to conduct the visual surveillance.

15 (2) In an action under this subsection, the court may award actual  
16 damages and reasonable attorney's fees.

17 (f) This section does not affect any legal or equitable right or remedy  
18 otherwise provided by law.

19 (g) This section does not affect the application of § 3-901 of this subtitle.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October 1, 2003.